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ABSTRACT

This publication is intended to help local school boards and administrators plan the procedures to be followed should a district face a need to reduce its staff. After presenting definitions, the authority of local districts to reduce personnel, and the appropriate Oregon statute on the subject, the document discusses two major areas of concern in the development of a reduction in force plan. One area, factors to be considered, includes needs of students, equal employment opportunities, student activities, minimum standards, position descriptions, merit, seniority, and terms of current bargaining agreements. The second area, details of the plan, is concerned with determination of needs, decisions on the positions to be eliminated, procedures for reducing personnel, grievances, and recall to employment. A list of resources--both printed and Oregon agency personnel--is included. (Author/IRT)

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SUGGESTED PERSONNEL POLICY GUIDELINES FOR SCHOOL DISTRICTS

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EA 009 372

SUGGESTED PERSONNEL POLICY GUIDELINES

FOR SCHOOL DISTRICTS

REDUCTION IN FORCE

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1977

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February 1977

FOREWORD

The passage of time brings changes to the operation and management of any agency. One of the recent changes, new to education, involves the procedures to be used when a district faces "reduction in force" problems.

This publication is prepared for and distributed to school districts in Oregon to assist local school boards and administrators plan for an orderly approach to reductions in their staff size.

This publication is another in the series of documents prepared under the leadership and guidance of the Personnel Management Advisory Committee

Our thanks to all the members of the Committee, and particularly to the subcommittee composed of Chairman Curt Huey, Al Bigler, John Heilbronner, Jack Liles, Lee Wells, Cliff Brush and George Martin.

Verne A. Duncan
State Superintendent of
Public Instruction

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Introduction

The need for reduction in force could face any Oregon school district due to levy failures, an enrollment drop, reorganization, or loss of state or federal funding. A plan should be developed in a nonemotional setting and before a crisis occurs. Some Oregon school districts have negotiated reduction in force plans and some have developed policies, but many have no plans or policies for dealing with the issue.

This publication is intended to help local school boards and administrators plan the procedures to be followed, should the districts face a reduction in force situation.

Authority

The local school district has the authority and, indeed, the obligation to provide for reduction in force, as shown by the following:

- Constitution of the State of Oregon, Article XI, Section 11, provides for the six percent limitation of increases in approved taxes without a vote of the people.

- ORS 294.326 - Compliance with Local Budget Law is required prior to expenditure or tax levy; exceptions - "Except as provided . . . , it is unlawful for any municipal corporation to expend money or to levy a tax in any year upon property subject to taxation unless the municipal corporation has complied with the provisions of ORS 294.305 to 294.520." (Local Budget Law)

- ORS 332.107 - "Each district school board may establish rules for the government of the schools and pupils consistent with the rules of the State Board of Education."

- ORS 332.535 - "All school districts shall maintain written personnel policies."

Definitions

The following meanings for words or phrases will be used in this document.

Administrative Rule (OAR) - any agency directive, regulation or statement of general applicability that implements, interprets or prescribes law or policy, or describes the procedure or practice requirements of any agency.

Administrator - any employee, the majority of whose employed time is devoted to service as a supervisor, principal, vice principal or director of a department or the equivalent, or a superintendent, deputy superintendent, or assistant superintendent of any district, whose duties and

job descriptions assinged by the district involve the implementation of policies and the coordination of planning, instruction or support services of the district, and who holds an Oregon administrative certificate if required for the position. (See "District Administrator.")

Affirmative Action - district policy and implementation procedures adopted by the Board to meet the federal and state statutes and regulations regarding the employment, promotion and retention of employees without regard to race, ethnic origin, sex, age, handicap or other form of discrimination.

Board - one of the following, usually identified in context:

1. District school board is the board of directors of a local school or community college district.

2. State Board of Education, or state board, is the body that establishes policy for the administration and operation of the public elementary and secondary schools and community colleges.

Classified Employees - district support personnel not required to hold a teaching certificate who are so identified by the district.

Collective Bargaining - the performance of the legal obligation of a public employer and the representative of its employees to meet at reasonable times and confer in good faith with respect to employment relations, or the negotiation of an agreement, or any question arising thereunder, and the execution of a written contract incorporating any agreement reached if requested by either party. However, this obligation does not compel either party to agree to a proposal or require making of a concession.

District - refers to the following as indicated by the context:

1. The legal entity as provided by law.

2. The elected school board.

3. The administrative staff.

4. The "community" served.

District Administrator - the chief administrative officer of a local school district, usually a superintendent. Small school districts without such a certificated employee may name one to carry out the provisions of the personnel rules and regulations imposed on the district through Oregon laws. (See "Administrator.")

Equal Opportunity - policies and implementation plans for the district, adopted by the school board, through which equal employment (affirmative action) and equal educational opportunities are assured all persons without regard for race, national origin, religion, sex, age, handicap or marital status.

Goal - a long-range statement of purpose which has been formally accepted by an organization to guide action.

Grievance - an act or condition thought to be unjust and grounds for a complaint, or as defined in district bargaining agreements.

Oregon Revised Statutes (ORS) - laws passed by the Oregon State Legislature, as amended at any regular or special session.

Permanent Teacher - any full-time teacher who has been regularly employed by a district for a period of not less than three successive years, and who has been reelected after the completion of such three-year period for the next succeeding school year.

Personnel Policies - those portions of local school district written policies which relate to personnel management established by board action.

Policy - a planned statement, adopted by the local school board, through which it states a position, intent or belief about a matter for which it has a responsibility.

Position (Job) Description - a statement by the local school district board, showing essential employee relations, roles or functions, major work duties and responsibilities and qualifications, for a particular job or class of jobs.

Probationary Teacher - any teacher employed by a district, who is not a permanent teacher.

Reduction in Force (RIF) - process by which a local district administration and board proceed in an orderly manner to reduce the number of employees, and to provide for the release and possible recall of those already employed.

Regulation - procedures designed to implement a policy statement of a governing body, adopted by that body for the direction of employees and other affected persons or groups.

Rule - procedures of the district administration regarding the implementation of a board policy or regulation, which is placed in writing and disseminated to all affected and interested persons.

Teacher - all employees in the public schools who have direct responsibility for instruction including administrators, unless otherwise indicated, for whom a teaching certificate is required as a basis for employment.

Temporary Teacher - a teacher employed to fill a position designated as temporary or experimental or to fill a vacancy which occurs after the opening of school because of unanticipated enrollment or because of the death, disability, retirement, resignation or dismissal of a permanent or probationary teacher.

Oregon Basic Statute

The 1973 Oregon Legislature amended the Fair Dismissal Law to provide in ORS 342.865 (j) that reasons for dismissal include:

> Reduction in permanent teacher staff resulting from the district's inability to levy a tax sufficient to provide funds to continue its educational program at its anticipated level or resulting from the district's elimination of classes due to decreased student enrollment or reduction of courses due to administrative decision. School districts shall make every effort to transfer teachers of courses scheduled for discontinuation to other positions for which they are qualified. Merit and seniority shall be considered in determination of a teacher for such transfer. (Underlining added.)

While this section of the statutes refers to permanent employees of a school district, it is strongly suggested that district policy and procedures provide for all employees, both certificated and classified. The provisions of the statute cover these changes in local conditions:

1. A drop in district enrollment, by grade levels or by totals, may make it desirable to reduce the number of employees. This reduction may be related to efforts to hold steady the average class size, or to a modification of this average.

2. A change in the educational program and other activities of the district may reduce the total number of employees, or the number needed to provide specific portions of the district offerings.

3. A reorganization of the staff structure in the district may reduce the numbers of teachers, administrators or other employees.

4. A loss of district financial support or a reduction in estimated revenue may require a reduction in the number of employees that can be funded. The loss in revenue may be due to continued rejection of the district budget levy by vote of the people, or to loss of other state and federal funds due to termination of special programs supported by those funds.

It is important to note that the first major impact of this law became effective in 1976. There are questions as to meaning, use and procedures that are not yet answered. Local district boards and administrators are strongly advised to seek the counsel of the district legal advisor on the matters covered in this document before adopting policy or procedures dealing with reduction in force.

Local school boards should seek advice and counsel of legal advisors and adapt any of the suggestions that are found in this publication to local conditions and needs before their formal acceptance.

Developing a Plan

There are several points of view on how one may proceed to develop a reduction in force plan. One is that the school district board need not involve its employees in developing the plan; a second suggests soliciting the ideas of employees and then developing a plan; a third takes the position that extensive involvement of employees who may ultimately be affected can resolve in advance many of the emotionally charged issues; and others may have their plan developed through the collective bargaining process. A district board may find that supplemental procedures will be needed to cover matters not included in the bargained agreement.

When the district plan for reduction in force is not a part of the collective bargaining agreement, or when a supplement to that agreement is needed, the district may wish to consider the following.

1. The procedure should be consistent with the manner in which district policies are developed, or the board may consider the use of the following:

   a. A committee could be formed to assist the administration and board in the development of a reduction in force plan.

   b. The committee should be broadly representative, to include employees, students and the general public.

   c. The committee should be given, in writing, a clear assignment including the scope of its report and the time when the report is due.

   d. The committee should plan for "hearings" so that individuals wishing to provide input into the plan may do so.

2. A suggested plan should be presented to the board on schedule, deliberated on by the board at open meeting, and acted upon at an early date.

3. The plan, when adopted, should be disseminated widely to all staff members and to the public through the usual media channels of the district.

4. The action of the school board should provide for a regular review of the plan, how it is working if used, and suggestions for its change if needed.

Factors to Consider

Needs of Students. There are many factors that must be considered in any reduction in personnel plan. The first and most important are needs of children and of the district program designed to best provide for meeting these needs.

Foremost among these considerations are the rules of the State Board of Education that require equal educational opportunity. This means that the program of the district, both the formal classroom and the special activities, must provide equal opportunities for all students. This has to do not only with the provision and use of space, but also the training, experience and wages paid persons providing these services. It means that children with special handicaps must be provided learning opportunities on a par with others, and that children with a langauge/reading deficiency must be assisted to reach minimum operational skills, with special attention to English as "a second language." Most of these concerns involve teachers with special skills and training.

Equal Employment Opportunity. A second major concern is the impact of equal employment opportunity. The district plan must be devised to assure that the staff is representative of the public from which employees are recruited. Equal opportunity must be provided for employment, advancement and retention without regard to race, ethnic origins, religion, sex, age or handicap. These matters must be included in decisions on retention and/or dismissal when reduction in personnel is required.

Student Activities. A third factor which relates to the needs of students has to do with the employment and assignment of "coaches" for the various sports and other activities. The offerings msut be "equal" between boys and girls, equally skilled persons must be employed, assigned and paid comparable salaries. This matter must be considered when reduction in personnel is considered.

Minimum Standards. It will be important to consider the requirements of elementary/secondary minimum standards as adopted by the State Board of Education. Most of the factors listed here are found in these standards, but there are also a number of additional concerns. These include program planning, based on needs assessments and goal setting. The decisions of the district designed to meet these standards must be considered in employee changes. Average class size, usually set by board and administrative decision, may need review when reduction in force is necessary.

Position Descriptions. A position description for each type and kind of position in the district, for all employees, including administrators, is of great importance when making decisions on quality of individual performance and the services that must be provided to boys and girls.

The position description is basic to the implementation of the equal employment opportunity plan, to the in-service and the staff evaluation programs. For these reasons, it is also a fundamental concern when there are decisions required involving reduction in personnel.

It is also desirable to develop and follow position descriptions for the various kinds of special activity responsibilities that may be assigned staff members, including athletics for boys and girls, music art and various "club" programs.

Merit. Another factor that should be mentioned is merit. This has four characteristics: qualifications, performance, training and experience. The qualifications of an employee as shown by the teacher's certificate, with endorsements, should be considered when reassignment is necessary.

The performance, or quality of service, requires careful definition. Oregon statutes require at least an annual evaluation of all employees, and this may be included as a factor in reduction in personnel.

Seniority. Employee seniority is considered in most plans dealing with reduction in force. District boards and administrators should carefully study and select a definition for seniority that best agrees with local conditions; there are many conditions that should be considered.

Terms of Current Bargaining Agreement. As pointed out above, the terms of the current agreement with employees may deal with reduction in force and related matters. These terms must be considered in any district plan regarding reduction in force.

There may be other considerations for reductions in force that must be considered in individual districts. The factors listed above represent the fundamental decisions that administrators and board members must make after it is determined that reduction is required.

Details of the Plan

Determination of Need. The first step in a reduction in force plan is to establish a clear procedure for determining the need for such action. This may be for one or more of the reasons given in ORS 342.865 (j). To determine the need:

1. The administration should be able to document the conditions that the board must consider, with facts as to need for reduction, and alternative plans for meeting the need.

2. The board should announce that the matter is to be considered at a regular or special open meeting and solicit input from interested parties and their committee(s) as to various alternatives.

3. The board should carefully consider all the factors and the alternatives, and arrive at a decision. Every effort should be made to reach a decision that will not be changed during the first year the plan is in force, unless basic conditions are altered.

4. The decision may indicate the number of positions that may be eliminated, or give general instructions to administrators as to the number of dollars by which to reduce the district budget through the elimination of positions.

Decision as to the Position(s) Eliminated. The board may then proceed to a consideration of the positions and activities that may be removed from the district programs, based on recommendations from administrators.

1. Equal opportunity requirements outlined above should receive proper consideration.

2. Major consideration should be given to the required courses for high school graduation and others needed to meet state minimum standards.

3. Enrichment activities should be retained as much as possible.

4. Class sizes should be maintained as near present district standards as possible.

5. The proposals should be reviewed in open meeting with interested persons or groups and, once decisions are made, every effort should be made to avoid changing them.

6. The positions or activities to be eliminated should be announced to the staff, along with the plans developed as outlined below.

Procedure for Reducing Personnel. The district board should instruct the administrative staff to proceed to identify specific programs and positions that may be dropped. This should include consideration for the following:

1. Identification of the specific positions that may be dropped by school, grade, subject or department, and by special activity.

   a. The decisions should consider all the programs and services that must be provided for the school and/or district to be standard.

   b. The decisions should consider the unique needs of boys and girls in the district and the individual schools.

   c. The decisions should include proper attention to the needs of handicapped and avoid all elements of discrimination.

   d. The decisions, where possible, should treat each school equally.

2. Alternatives to reduction in employees should be identified so that current employees have options. Consideration should be given to identifying:

   a. Those who will retire because of reaching age 65, and others who may be planning or may be willing to take early retirement. (See Personnel Management Advisory Committee publication entitled, "School Employees Retirement.")

b. Those who may be planning or will be able to plan for sabbatical or other leaves during the coming year when this is not due to reductions in financial resources.

c. Those who actively seek or may be encouraged to seek voluntary transfer and who otherwise may be qualifed for positions that will be retained.

d. Those who will be resigning for whatever reason.

3. Details of the plan for deciding those to be retained should be established.

a. After the administrative staff have identified the programs and services and/or positions to be dropped, as well as the persons who will not return to district service the next year (for the reasons outlined above), the administrative staff should then study the alternative assignments for the remaining employees.

b. The remaining employees, as determined above, should be listed by positions, by special assignment, and in such other categories as necessary for the district. It may be useful to list them by categories with indicators of other factors which may be considered.

c. All remaining employees must be placed in positions for which they are qualifed.

4. Notification of nonrenewal or dismissal.

a. Those not retained must be considered as subject to dismissal as provided by law.

b. The requirements of law must be followed as employees are informed of employment status for the coming year.

(1) Permanent employees to be dismissed must be properly informed about and otherwise provided all the protection of the Fair Dismissal laws.

(2) Probationary employees to be dismissed must be assured of at least the procedure outlined in ORS 342.835.

(3) Classified employees to be dismissed should be given the same protection as that provided teachers. ORS 342.663 provides that they are entitled to a hearing, and this right was affirmed by an Oregon Supreme Court ruling (Tupper vs. Fairview Hospital, 276Or 657 [1976]) that these employees should have in writing the charges, have the opportunity to face the person making the charges and be given the chance to refute the charges in either a formal or informal hearing.

(4) The procedures that may be followed in the event of forced closure due to loss of budget elections or catastrophy must include as much of the previous as possible. (See Personnel Management Advisory Committee publication Forced School Closure.)

Grievances or Complaints. The district should have a plan that provides a procedure for employee grievances or complaints as they relate to reduction-in-personnel actions.

1. If the plan and procedure for reduction in force were agreed upon at the bargaining table and are part of the signed contract, a claim of mistreatment should follow those procedures for handling a grievance, unless explicitly omitted from that process. In this case, the claim should appear as a complaint.

2. If the plan and procedure for reduction in personnel are not part of the bargaining agreement, or are otherwise removed from the grievance process, then the board may provide that employee grievances will be presented to the administration and/or board as a complaint.

   a. Every effort should be made by the district administrative personnel to resolve a complaint.

   b. When an employee does not accept the conclusions of the administrative staff or dismissal under ORS 342.865 (1j), a complaint may be presented to the school board, a right granted by Oregon statutes.

   c. The board may decide to consider the matter informally with the employee, or the board and employee may decide on a formal hearing.

   d. A formal hearing, if provided by the board or requested by the employee, may follow the process outlined in the Personnel Management Advisory Committee document on Hearings (Oregon Department of Education, 1975) as outlined on pages 39-41.

3. The decision of the board is final, except that a permanent teacher may appeal to the Fair Dismissal Appeals Board.

Recall to Employment. There may be occasions when an employee who has been released due to reduction in force conditions, may be offered the opportunity to return to employment in the district. This may occur when a resignation, either prior to or after school starts in the fall, creates a position for which the person is qualified. It may also occur: (1) when the financial condition of the district improves, perhaps through a late vote on the district budget; (2) through a renewal of state or federal special project funds; or (3) for some other special reason that creates a vacancy.

1. Released employees interested in reinstatement should keep the district informed of their interest and residence and of periods of absence, so that a speedy response may be made to an offer to reemploy.

2. The district administrators should maintain an updated list of the positions and services eliminated, of the persons released in the priority order listed above and of the readiness of such persons to return.

3. The district should maintain and use qualified released employees on the district substitute lists.

4. Released employees should be contacted and called back to employment according to the priority lists, by categories that were used in determining those to be released, as qualified.

5. After a designated period of time, failure by the person contacted to respond may be accepted as rejection of the offer, and the next person on the list may be approached with an offer to reemploy.

6. If and when conditions improve so that substantial numbers may be reemployed, every effort should be made to contact all who were released so that their desires for reemployment may be determined and offers made for such positions and activities for which they may be qualified.

7. The district may wish to set a time after which the recall procedure will no longer apply.

Board Adoption and Dissemination of the Plan

The district administrative personnel, and others as appropriate, having considered all the factors listed above will then be ready to present a proposed plan to the school board.

1. The board should carefully consider all the factors and the alternatives and agree on a plan. The report of the special ad hoc committee, if used, should be presented at this time. Every effort should be made to reach a decision that will not be changed during the present action period, unless conditions are altered.

2. The board should express its decision in a short policy statement and implementation plan. The plan should clearly state the responsibilities of the board and the district administrator, and the rights and responsibilities of all employees.

3. The plan and procedures, as adopted, should be placed in writing and copies provided each employee of the district, and to all interested members of the public.

Resources

Printed Material

Personnel Management Advisory Committee

Teacher Personnel Files
Discussing Personnel Matters During Board Meetings
1973 Guidelines and Model Policies
Position Descriptions
Evaluation Guidelines for School Personnel (revised)
School Employees Retirement
Educational Research Service, ERS Information Aid, "Local Policies for Reduction in Force," April 1975.
Suggested Calendar of Yearly School Board Activities

Agency Personnel

Oregon Department of Education - Dr. Don Kipp
Oregon School Board Association - Chris Dudley
Oregon Education Association
Local Government Personnel Institute
Fair Dismissal Appeals Board - Dr. Milt Baum
Teacher Standards and Practices Commission - Richard Jones
Public Employees Retirement Board
Employment Relations Board - Melvin Cleveland
Local School District Personnel Officers